

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
DOCKET NO. 92-297-C - ORDER NO. 92-406 ✓  
MAY 26, 1992

IN RE: L. G. Elrod,	)	
	)	
Complainant,	)	ORDER DENYING
	)	REQUEST TO
	)	INVESTIGATE
v.	)	
	)	
	)	
Southern Bell Telephone and	)	
Telegraph Company,	)	
	)	
Respondent.	)	
	)	
	)	
	)	

---

This matter is before the Public Service Commission of South Carolina (the Commission) on the request of L.G. Elrod (Complainant) asking the Commission to conduct a statewide investigation of Southern Bell Telephone & Telegraph Company's (Respondent's) policy regarding installation of equipment without obtaining appropriate easements or right-of-ways. Complainant asserts Respondent has been improperly installing its poles and lines on private property without first obtaining an easement, right-of-way, or the permission of the property owner. Complainant asks the Commission to undertake this investigation pursuant to S.C. Code Ann. §58-9-770 and §58-9-820 (1976).

South Carolina Code Ann. §58-9-770 states, in relevant part, as follows:

Whenever it shall appear that any telephone utility is failing or omitting... to do anything required of it by law... an action or proceeding shall be prosecuted in any court of competent jurisdiction in the name of the Commission or the State... (Emphasis added).

South Carolina Code Ann. §58-9-820 states, in relevant part, as follows:

In addition to the foregoing expressly enumerated powers the Commission shall enforce, execute, administer and carry out by its order, ruling, regulation or otherwise all the provisions of Articles 1 through 13... or any other provisions of the law of this State regulating telephone utilities.

The Commission concludes that Section 58-9-770 does not authorize it to prosecute a telephone utility for an action which is alleged to have violated the law. The statute merely provides that an action may be prosecuted in the name of the Commission.

Further, the Commission concludes that Section 58-9-820 does not authorize it to consider whether a telephone utility has violated the property rights of a landowner. Instead, Section 58-9-820 merely authorizes the Commission to specifically enforce the provisions of Articles 1 through 13 of Chapter 9 of Title 58 and to enforce other provisions of law which regulate telephone utilities. The Commission concludes that, while a telephone utility may be subject to the same basic principles of property law as any other entity, the enforcement of those property laws is not within the scope of the Commission's regulation of telephone utilities. In fact, as a creature of statute, the Commission only

has authority to regulate the rates and service of telephone utilities.

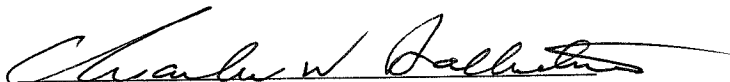
Accordingly, the Commission hereby denies the Complainant's request to investigate Respondent's policy regarding the use of easements and right-of-ways on the ground that it lacks jurisdiction to consider the issue.

IT IS SO ORDERED.

BY ORDER OF THE COMMISSION:

  
Chairman

ATTEST:

  
Executive Director

(SEAL)